



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1153]

Certain Bone Cements, Components Thereof and Products Containing the Same; Commission Determination Not to Review an Initial Determination Granting Complainants' Renewed Motion for Leave to Amend the First Amended Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 18) of the presiding Administrative Law Judge ("ALJ") granting complainants' renewed motion for leave to amend the first amended complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on

April 10, 2019, based on a complaint filed by Heraeus Medical LLC of Yardley, Pennsylvania, and Heraeus Medical GmbH of Wehrheim, Germany (collectively, “Heraeus”). 84 FR 14394-95 (Apr. 10, 2019). The complaint alleges a violation of section 337 by reason of misappropriation of trade secrets, the threat or effect of which is to destroy or substantially injure a domestic industry in the United States or to prevent the establishment of such an industry. The complaint named as respondents Zimmer Biomet Holdings, Inc. of Warsaw, Indiana; Biomet, Inc. of Warsaw, Indiana; Zimmer Orthopaedic Surgical Products, Inc. of Dover, Ohio; Zimmer Surgical, Inc. of Dover, Ohio; Biomet France S.A.R.L. of Valence, France; Biomet Deutschland GmbH of Berlin, Germany; Zimmer Biomet Deutschland GmbH of Freiburg im Breisgau, Germany; Biomet Europe B.V. of Dordrecht, Netherlands; Biomet Global Supply Chain Center B.V. of Dordrecht, Netherlands; Zimmer Biomet Nederland B.V. of Dordrecht, Netherlands; Biomet Orthopedics, LLC of Warsaw, Indiana; and Biomet Orthopaedics Switzerland GmbH of Dietikon, Switzerland. The Commission’s Office of Unfair Import Investigations (“OUII”) was named as a party. Subsequently, the investigation was terminated as to respondents Zimmer Orthopaedic Surgical Products, Inc. and Biomet Europe B.V. Order No. 10 (May 23, 2019), unreviewed Notice (June 14, 2019).

On June 17, 2019, complainants Heraeus moved for leave to amend the first amended complaint and notice of investigation to add three entities as respondents: Zimmer US, Inc. of Warsaw, Indiana; Zimmer, GmbH of Winterthur, Switzerland; and Biomet Manufacturing, LLC of Warsaw, Indiana. On June 21, 2019, respondents Zimmer Biomet Holdings, Inc.; Biomet, Inc.; Zimmer Surgical, Inc.; Biomet France S.A.R.L.; Biomet Deutschland GmbH; Zimmer Biomet Deutschland GmbH; Biomet Global Supply Chain Center B.V.; Zimmer Biomet Nederland B.V.; Biomet Orthopedics, LLC; and Biomet Orthopaedics Switzerland GmbH (collectively, “Biomet”) filed a response not opposing the motion to add the three entities. On

June 25, 2019, OUII also filed a response supporting the motion.

On June 26, 2019, the ALJ issued the subject ID Commission Rule 210.14(b)(1) (19 CFR 210.14(b)(1)), granting the motion. The ALJ found that respondents' motion complies with the Commission's rules. ID at 2. The ALJ also found that there is no dispute over Heraeus's claim that it did not know nor should have known of the three entities' roles in the sale for importation, importation, and/or sale after importation of the accused products in this investigation prior to Biomet's discovery responses. *Id.* at 2-3. The ALJ found that such a circumstance constitutes the requisite good cause. *Id.* at 3. The ALJ further found that the certificate of service appended to Heraeus's motion indicates the three entities were served with the motion in accordance with Commission Rule 210.14(b) (19 CFR 210.14(b)). *Id.* (citing Mot. Mem. at 12.) The ALJ also found no prejudice to the public interest or to the rights of the parties to the investigation would result from granting the motion. *Id.* No party petitioned for review of the ID.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: July 19, 2019.

Lisa Barton,
Secretary to the Commission.